

1 MAUREEN E. McCLAIN (State Bar No. 062050)

Email: mcclain@kmm.com

2 ALEX HERNAEZ (State Bar No. 201441)

Email: hernaez@kmm.com

3 MATTHEW P. VANDALL (State Bar No. 196962)

Email: vandall@kmm.com

4 KAUFF McCLAIN & McGUIRE LLP

One Post Street, Suite 2600

5 San Francisco, California 94104

Telephone: (415) 421-3111

6 Facsimile: (415) 421-0938

7 Attorneys for Defendant

ALTA BATES SUMMIT MEDICAL CENTER

8 G. SCOTT EMBLIDGE (State Bar No. 121613)

Email: emblidge@meqlaw.com

9 RACHEL J. SATER (State Bar No. 147976)

Email: sater@meqlaw.com

10 ANDREW E. SWEET (State Bar No. 160870)

Email: sweet@meqlaw.com

11 MOSCONE, EMBLIDGE & QUADRA, LLP

12 220 Montgomery Street, Suite 2100

San Francisco, California 94104-4238

13 Telephone: (415) 362-3599

14 Facsimile: (415) 362-2006

Attorneys for Plaintiff

15 COYNESS L. ENNIX, JR., M.D.

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA

18 COYNESS L. ENNIX, JR., M.D., as an
19 individual and in his representative capacity
20 under Business & Professions Code Section
17200 et seq.,

21 Plaintiff,

22 v.

23 RUSSELL D. STANTEN, M.D., LEIGH I.G.
24 IVERSON, M.D., STEVEN A. STANTEN,
M.D., WILLIAM M. ISENBERG, M.D.,
25 Ph.D., ALTA BATES SUMMIT MEDICAL
CENTER and does 1 through 100,

26 Defendants.

CASE NO. C 07-2486 WHA

**STIPULATION AND [PROPOSED]
ORDER TO ALTER CASE
CAPTION TO REFLECT
ACCURATELY THE REMAINING
CLAIM AND PARTIES TO THE
ACTION**

JUDGE: Hon. William H. Alsup

COMPLAINT FILED: May 9, 2007
TRIAL DATE: June 2, 2008

1 WHEREAS, on May 9, 2007, Plaintiff commenced an action in the United
 2 States District Court for the Northern District of California entitled *Coyness L. Ennix, Jr.,*
 3 *M.D., as an individual and in his representative capacity under Business & Professions*
 4 *Code § 17200 et seq. v. Russell D. Stanten, M.D., Leigh I.G. Iverson, M.D., William M.*
 5 *Isenberg, M.D., Ph.D., Alta Bates Summit Medical Center and does 1 through 100* (Case
 6 Number C 07-2486 WHA) (the "Action");

7 WHEREAS, the Action asserted five causes of action against the various
 8 defendants: (1) one federal claim charging the Alta Bates Summit Medical Center (the
 9 "Medical Center") (and Does 1-100) with race discrimination in violation of 42 U.S.C.
 10 section 1981 ("Section 1981") (Compl., ¶¶ 37-42); and (2) four claims asserting
 11 violations of state law, including (a) race discrimination in violation of the Unruh Civil
 12 Rights Act against the Medical Center (and Does 1-100) (*id.*, ¶¶ 43-47); (b) violations of
 13 the Cartwright Act against the Individual Defendants¹ (and Does 1-100) (*id.*, ¶¶ 48-51);
 14 (c) interference with the right to practice Plaintiff's profession (*id.*, ¶¶ 52-55); and
 15 (d) violations of California Business & Professions Code section 17200, et seq. ("Section
 16 17200") (*id.*, ¶¶ 56-59).

17 WHEREAS, the Medical Center and the Individual Defendants responded
 18 to the Complaint on May 30, 2007, by filing a Motion to Dismiss, pursuant to Federal
 19 Rule of Civil Procedure 12(b)(6), and by filing a Special Motion to Strike, pursuant to
 20 California Code of Civil Procedure section 425.16;

21 WHEREAS, on August 16, 2007, the Court issued its "Case Management
 22 Order and Reference to ADR Unit for Early Neutral Evaluation" establishing certain
 23 deadlines, including that (1) "[l]eave to add any new parties or pleading amendments
 24 must be sought by August 27, 2007"; and (2) "[a]ll unserved defendants and any Doe
 25

26 ¹ The Individual Defendants are defined herein to include: (1) Russell D. Stanten, M.D.;
 27 (2) Leigh I.G. Iverson, M.D.; (3) Steven A. Stanten, M.D.; and (4) William M. Isenberg, M.D.,
 28 Ph.D.

1 defendants must be formally identified and served by September 4, 2007”;

2 WHEREAS, on August 28, 2007, the Court issued its “Order Granting In
3 Part and Denying In Part Motion to Dismiss” (the “Dismissal Order”) which dismissed
4 without leave to amend each of the Individual Defendants and each of the state law
5 claims from the Action. See Dismissal Order at p. 6.

6 WHEREAS, the only remaining claim in the Action is the cause of action
7 asserted against the Medical Center for race discrimination in violation of Section 1981.
8 See Dismissal Order at p. 14; and

9 WHEREAS, Plaintiff has not sought leave to add any new parties or
10 pleading amendments or to formally identify any Doe defendants.

11 IT IS THEREFORE STIPULATED that the above-referenced caption
12 should be changed to reflect accurately the remaining parties and claim in the Action by:

13 1. striking the following words: “RUSSELL D. STANTEN, M.D.,
14 LEIGH I.G. IVERSON, M.D., STEVEN A. STANTEN, M.D., WILLIAM M. ISENBERG,
15 M.D., Ph.D.,” and “does 1 through 100”

16 2. changing the word “Defendants” to “Defendant”; and

17 3. striking the phrase “as an individual and in his representative
18 capacity under Business & Professions Code Section 17200 et seq”.

19 For the Court’s convenience, Plaintiff and the Medical Center attach a copy of the
20 proposed changes in their final form as Exhibit A to this Stipulation and Proposed Order.

1 I HEREBY ATTEST THAT THE CONTENT OF THIS DOCUMENT IS ACCEPTABLE
2 TO ALL PERSONS REQUIRED TO SIGN THIS DOCUMENT.

3 DATED: September 10, 2007

KAUFF McCLAIN & McGUIRE LLP

4
5 By: /S/
MATTHEW P. VANDALL

6 Attorneys for Defendant
7 ALTA BATES SUMMIT MEDICAL
8 CENTER

9
10 DATED: September 10, 2007

MOSCONE, EMBLIDGE & QUADRA, LLP

11
12 By: /S/
RACHEL SATER

13 Attorneys for Plaintiff
14 COYNESS L. ENNIX, JR., M.D.

15
16 PURSUANT TO STIPULATION, IT IS SO ORDERED.

17 DATED: _____

18 _____
Hon. William H. Alsup

19 UNITED STATES DISTRICT COURT JUDGE

20 121260.v1